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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,352

10/29/2003

Curtis Kell

CK-4-gw

6705

7590

02/25/2005

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EXAMINER

HAN, JASON

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/696,352

Applicant(s)

KELL, CURTIS

Examiner

Jason M. Han

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 3-5, 7-9, 11, 12, 14 and 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 10, 13 and 15 is/are rejected.
- 7) ☒ Claim(s) 1 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: 1/24/2005
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to Independent Claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### ***Information Disclosure Statement***

2. The information disclosure statement filed October 29, 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it has not been submitted on the proper PTO-1449 form. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities: Applicant recites the limitation "said tip-up having first and second opposing ends" in lines 4-5 of the claim. Such a limitation is vague and indefinite, whereby the examiner has broadly interpreted and suggests the limitation refer to "the base having first and second opposing ends". Appropriate correction is required.

4. Claim 13 is objected to because of the following informalities: Applicant recites the limitation "said electrical interconnection". There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pieczynski (U.S. Publication 2003/0145508) in view of Reed (U.S. Patent 4437255).
6. With regards to Claim 1, Pieczynski discloses an ice fishing tip-up consisting of:
- An elongated base for spanning a ice fishing hole [Figure 2];
  - Said tip-up (base) having first and second ends [Figure 2];
  - An elongated flag pole [Figure 2: (33)] disposed on the first end of the base, whereby the flagpole has a first end and a second opposing end that is resiliently mounted to the first end of the base;
  - An elongated downward extending arm [Figure 2: (36)] disposed intermediate of the base, whereby the arm has a first end with a flag pole engaging member [Figure 2: (34)] and a second opposing end having a fishing line with a hook [Figure 2: (35)] attached thereto, wherein the first end of the arm is movable by the action of a fish striking the hook, wherein the flagpole moves to a substantially vertical position via disengagement with the flag pole

engaging member by the movement of the first end of the arm [Page 2, Paragraph 23];

- A light assembly [Figure 2: (32)] located on the first end of the flag pole wherein a light [Figure 5: (62)] is disposed therein;
- Means for supplying electrical power [Figure 2: (31)] to the light when the flag pole moves from a horizontal position to a vertical position including a tilt switch [Figure 5: (61)] in the light assembly, whereby the means for supplying electrical power consists of a battery assembly [Figure 1: (20); Figure 2: (31)] mounted on the flag pole beneath the flag containing a battery [Figure 4: (51)] connected electrically to the tilt switch; and
- A flag [Figure 2] mounted on the flag pole beneath the light assembly.

Pieczynski does not specifically teach a wireless RF signal transmitter mounted within the light assembly for transmitting a wireless RF signal to a remote receiver when the light is powered, nor teaches the battery assembly having an on/off switch.

Reed teaches a fish detecting system including an FM transmitter [Figure 3: (18)] sending a signal to an FM receiver [Figure 2: (30); Figure 4]. In addition, Reed teaches, "The signal receiving means includes a suitable power source such as a battery 26 connected in circuit with an **on/off switch** 28. In the "on" position of the switch 28, and FM receiver 30 is activated. Upon transmittal of a signal from the antenna 20, the FM receiver 30 receives the signal by way of an antenna 32. The signal is amplified by an amplifier 34 and then delivered to a speaker or other audible signal device 36 and also to a lamp or light emitting diode 38 [Column 2, Lines 1-9]."

It would have been obvious to modify the tip-up of Pieczynski to incorporate the FM transmitter/receiver of Reed in order to provide a fishermen remote operation of the device. Such a configuration, as well as the on/off switch, is commonly known within the art.

7. With regards to Claim 2, Pieczynski in view of Reed discloses the claimed invention as cited above. In addition, Pieczynski teaches the light being a flashing light [Abstract].

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pieczynski (U.S. Publication 2003/0145508) in view of Reed (U.S. Patent 4437255) as applied to Claim 2 above, and further in view of Dury (U.S. Patent 4907363).

Pieczynski in view of Reed discloses the claimed invention as cited above. In addition, Reed teaches an assembly including a top cover [Figure 3: (46)] connected to a bottom cover [Figure 3: (48)], a sealing gasket [Figure 3: (52)] disposed between the top and bottom covers, a control circuit having an electronic circuit on a circuit board [Figure 3: (58)]. However, neither Pieczynski nor Reed teach the light assembly having a light being disposed in a light socket on the circuit board to permit the light to be replaced.

Dury discloses a weather insulated tip-up light mounting that includes a light socket [Figure 1: (24)] for receiving a light [Figure 1: (28)].

It would have been obvious to modify the tip-up of Pieczynski with the FM transmitter/receiver of Reed to further incorporate the light socket of Dury, so as to provide the fish detecting device with a means for replacing the light in case of burnout

or damage. Such a configuration is commonly known and an obvious advantage within the art of illumination.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pieczynski (U.S. Publication 2003/0145508) in view of Reed (U.S. Patent 4437255) and Dury (U.S. Patent 4907363) as applied to Claim 6 above, and further in view of Dowling et al. (U.S. Publication 2002/0048169).

Pieczynski in view of Reed and Dury teach a fish detecting device as cited above, but none teach the device having a microcontroller to control the light and RF transmitter.

Dowling teaches a light-emitting diode system including a microcontroller [Page 2, Paragraph 39, last sentence].

It would have been obvious to modify the tip-up of Pieczynski with the FM transmitter of Reed and the light socket of Dury to further incorporate the microcontroller of Dowling so as to provide a means for controlling multiple LEDs in giving a greater illumination that is ostentatious in warning a user of a fish strike.

10. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pieczynski (U.S. Publication 2003/0145508) in view of Reed (U.S. Patent 4437255), Dury (U.S. Patent 4907363), Dowling et al. (U.S. Publication 2002/0048169) as applied to Claim 10 above, and further in view of Bailey (U.S. Patent 3879880).

10. With regards to Claim 13, Pieczynski in view of Reed, Dury, and Dowling teach a fish detecting device as cited above, but none teach the device having a means for

electrical interconnection within the flag pole, wherein electrical wires pass through the bore to connect the light to the battery.

Bailey teaches a tube with a bore [Figure 1: (1)] wherein electrical wires [Figure 1: (9, 10)] pass through to connect a light [Figure 1: (6)] to a portable power source [Figure 1: (8)].

It would have been obvious to modify the tip-up of Pieczynski with the FM transmitter/receiver of Reed, light socket of Dury, and the microcontroller of Dowling to further incorporate the bore with electrical wires of Bailey. It is obvious that such a modification would provide for an aesthetic appeal and protect the electrical communication from weather extremes and water.

11. With regards to Claim 15, Pieczynski in view of Reed, Dury, Dowling, and further in view of Bailey discloses the claimed invention as cited above. In addition, Pieczynski teaches the second end of the flag pole including a spring [Figure 2] so that the flag is resiliently mounted to the base.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following reference of Muenchow (U.S. Patent 5979101) is cited to further show the state of the art pertinent to the current application, but is not considered exhaustive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (2/17/2005)



JOHN ANTHONY WARD  
PRIMARY EXAMINER